

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SEMCON TECH, LLC,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Semcon Tech, LLC makes the following allegations against Defendant International Business Machines Corporation:

PARTIES

1. Plaintiff Semcon Tech, LLC (“Semcon”) is a Texas limited liability company having a principal place of business at 719 W. Front Street, Suite 242, Tyler, Texas 75702.

2. On information and belief, Defendant International Business Machines Corporation (“IBM”) is a New York corporation with its principal place of business at 1 New Orchard Road, Armonk, New York 10504-1722. On information and belief, IBM can be served through its registered agent, Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, IBM is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed itself of the rights and benefits of Delaware by conducting substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Delaware and in this Judicial District.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, IBM has transacted business in this district and has committed and/or induced acts of patent infringement in this district.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,156,717

6. Plaintiff Semcon realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. Plaintiff Semcon is the owner by assignment of United States Patent No. 7,156,717 ("the '717 patent") titled "[In] Situ Finishing Aid Control." The '717 patent was duly and legally issued by the United States Patent and Trademark Office on January 2, 2007. A true and correct copy of the '717 patent is included as Exhibit A.

8. Defendant IBM makes, uses, sells, offers for sale, and/or imports into the United States integrated circuits. On information and belief, at least some of the integrated circuits made, used, sold, offered for sale, and/or imported into the United States by IBM are fabricated using, in part, a process known as chemical-mechanical polishing ("CMP") with the use of an Applied Materials Reflexion CMP system.

9. On information and belief, IBM has infringed and continues to infringe the '717 patent by, among other things, making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the '717 patent. Such integrated circuits include, by way of example and without limitation, integrated circuits fabricated using, in part, CMP with the use of an Applied Materials Reflexion CMP system, using a process covered by one or more claims of the '717 patent, including but not limited to claim 1. By making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the '717 patent, IBM has injured Semcon and is liable to Semcon for infringement of the '717 patent pursuant to 35 U.S.C. § 271.

10. As a result of IBM's infringement of the '717 patent, Plaintiff Semcon has suffered monetary damages in an amount adequate to compensate for IBM's infringement, but in no event less than a reasonable royalty for the use made of the invention by IBM, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,551,933

11. Plaintiff Semcon realleges and incorporates by reference paragraphs 1-10 above, as if fully set forth herein.

12. Plaintiff Semcon is the owner by assignment of United States Patent No. 6,551,933 ("the '933 patent") titled "Abrasive Finishing with Lubricant and Tracking." The '933 patent was duly and legally issued by the United States Patent and Trademark Office on April 22, 2003. A true and correct copy of the '933 patent is included as Exhibit B.

13. Defendant IBM makes, uses, sells, offers for sale, and/or imports into the United States integrated circuits. On information and belief, at least some of the integrated circuits made, used, sold, offered for sale, and/or imported into the United States by IBM are fabricated

using, in part, CMP with the use of an Applied Materials Reflexion CMP system with a fixed abrasive pad.

14. On information and belief, IBM has infringed and continues to infringe the '933 patent by, among other things, making, using, offering for sale, selling and/or importing into the United States integrated circuits fabricated using an Applied Materials Reflexion chemical-mechanical polishing (CMP) system with a fixed abrasive pad, using a process covered by one or more claims of the '933 patent, including but not limited to claim 14. By making, using, offering for sale, selling and/or importing into the United States such products that are made using one or more processes covered by one or more claims of the '933 patent, IBM has injured Semcon and is liable to Semcon for infringement of the '933 patent pursuant to 35 U.S.C. § 271.

15. As a result of IBM's infringement of the '933 patent, Plaintiff Semcon has suffered monetary damages in an amount adequate to compensate for IBM's infringement, but in no event less than a reasonable royalty for the use made of the invention by IBM, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Semcon respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that IBM has infringed, either literally and/or under the doctrine of equivalents, the '717 patent and the '933 patent;
2. A judgment and order requiring IBM to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant's infringement of the '717 patent and the '933 patent as provided under 35 U.S.C. § 284; and
3. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

April 27, 2012

BAYARD, P.A.

OF COUNSEL:

SNR DENTON US LLP

Charles R. Bruton
Mark L. Hogge
Shailendra K. Maheshwari
Rajesh C. Noronha
1301 K Street, NW
Suite 600, East Tower
Washington, DC 20005-3364
charles.bruton@snrdenton.com
mark.hogge@snrdenton.com
shailendra.maheshwari@snrdenton.com
rajesh.noronha@snrdenton.com

/s/ Richard D. Kirk

Richard D. Kirk (rk0922)
Stephen B. Brauerman (sb4952)
Vanessa R. Tiradentes (vt5398)
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
(302) 655-5000
rkirk@bayardlaw.com
sbrauerman@bayardlaw.com
vtiradentes@bayardlaw.com

Attorneys for Plaintiff Semcon Tech, LLC